

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

ALFREDO GARCIA,)	
Institutional ID No. 1551286,)	
Previous TDCJ No. 437737, 668073,)	
SID No. 2489306,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	5:09-CV-210-C
DAWSON COUNTY SHERIFFS)	ECF
and JAILERS/AGENTS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

The United States Magistrate Judge entered a Report and Recommendation on May 28, 2010, and Plaintiff filed his objections on June 11, 2010.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendations of the Magistrate Judge as well as the specific objections of the Plaintiff.¹ The Court finds that Plaintiff's objections should be overruled in all things, and the Court accepts and adopts the findings, conclusions, and recommendation of the Magistrate Judge.

¹Plaintiff filed an Amended Complaint on July 12, 2010, subsequent to the filing of both the Magistrate Judge's Report and Recommendation and his objections to the Report and Recommendation. The Court notes that by Order entered September 9, 2009, Plaintiff was advised that no amendments or supplements to the complaint shall be filed without prior Court approval and that a complete amended complaint must be attached to any motion to amend. The Court finds that Plaintiff did not seek or obtain Court approval prior to filing his Amended Complaint. Moreover, the Amended Complaint does not provide any information that is useful to the Court in screening Plaintiff's complaint pursuant to 42 U.S.C. §§ 1915(e)(2) and 1915A. Therefore, to the extent Plaintiff's filing of the amended complaint may be construed as an attempt to obtain leave to file an amended complaint, the Court finds that leave to file an amended complaint should be DENIED.

It is, therefore, ORDERED that Plaintiff's complaint and all claims alleged therein are **DISMISSED WITH PREJUDICE AS FRIVOLOUS and for failure to state a claim.**

Judgment shall be entered accordingly.

This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).


Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

A copy of this order shall be sent by first class mail to all parties appearing *pro se* and to any attorney of record by first class mail or electronic notification.

Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$455.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Any pending motions are **DENIED**.

Dated December 27, 2010.


SAM R. CUMMINGS
UNITED STATES DISTRICT JUDGE